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September 3, 2013

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Attorney General Holder:

I have grave concerns about the recent actions taken by the Department of Justice (DOJ) to block the merger of American Airlines and US Airways. This is yet another attempt by the administration to stifle business and free enterprise and instead create needless government over-regulation. It is time the administration realizes the free market works better without government intervention. This kind of intrusion is unacceptable and will cause severe harm to two airlines and tens of thousands of their employees. Further, the DOJ's position is wholly incorrect; the merger does not violate anti-trust laws, and in fact, the merger will create more choices for Americans at a lower cost.

Even as judged by the administration's track record of being unfair to business, this comes somewhat as a surprise. In recent years, DOJ has allowed other major airlines to merge; Delta taking over Northwest, United absorbing Continental and Southwest Airlines joining with AirTran – all of which occurred without DOJ's scrutiny. In the Delta-Northwest merger, the two companies had nearly the same amount of air route overlap as do American Airlines and US Airways. In the Southwest Airlines and AirTran merger, their routes overlapped even more.

Now, two top-tier airlines, American Airlines and US Airways would like to join forces. There are nearly 900 domestic routes that American Airlines and US Airways fly and only 12 of them overlap. Further, American Airlines flies to 48 cities not served by US Airways, and US Airways flies to 64 that American Airlines does not service. DOJ's reasoning that the merger will create more overlap and less competition for other airlines is unfounded.

Another unsubstantiated claim is that other airlines will change their policies to increase prices in response to the merger. Yes, it is possible that other airlines may charge higher bag fees or ticket charges in order to make up for lost revenue because of the new American Airlines. However, this is an ordinary business decision capable of being worked out by the other airlines themselves, not lawyers at the DOJ. Simply put, this argument is pure conjecture; DOJ cannot predict the future and has no idea what decisions other airlines are going to make. DOJ should

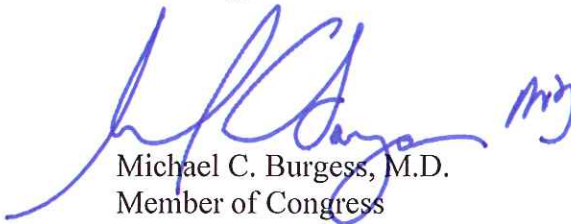
not involve itself because other airlines may or may not make a competitive business decision in response to the merger.

The claim by DOJ that makes the least sense is that American Airlines and US Airways are doing fine without the merger. In essence, DOJ believes that since entering bankruptcy, American Airlines has adopted a business model that makes them competitive again and therefore the merger is unnecessary. In the words of Assistant Attorney General William Baer, "neither airline needs this merger to succeed." Since when is the standard for violating anti-trust laws whether it makes financial sense for the companies to do so?

The baseless claims by DOJ give rise to a peculiar and arbitrary challenge to this merger. It seems that DOJ is trying to remedy past mistakes when it did not challenge former mergers by punishing American Airlines and US Airways for its previous inaction.

DOJ's position is untenable. At best, DOJ is unjustly injecting itself in a business decision between two private companies. At worst, DOJ is scapegoating a perfectly qualified merger because DOJ wants to make up for past transgressions. Either way, what DOJ is doing is wrong and will do harm to two icons of the industry and tens of thousands of people. Once again, I urge you to rethink your position and let these private companies do what is in their own interest and not what Washington thinks is best for them.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael C. Burgess", with a small "MB" monogram to the right.

Michael C. Burgess, M.D.  
Member of Congress